

REMARKS

Claims 1, 2, 5-17, 20-29, 32-34 and 37-46 are pending in this application, have been examined and stand rejected. No amendments have been made to the examined claims. Favorable reconsideration of the application and allowance of all of the pending claims are respectfully requested in view of the following remarks.

Claims 16, 17, 20, 28, 29, 32 and 46 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The Examiner alleges that the term “*substantially equal*”, as set forth in these claims, is a relative term that renders these claims indefinite. The Examiner further alleges that the specification does not provide a standard for ascertaining the requisite degree for this term, and that one having ordinary skill in the art would not be reasonably apprised of the scope of the invention. This rejection is traversed.

The following is set forth in MPEP §2173.05(b):

The term "substantially" is often used in conjunction with another term to describe a particular characteristic of the claimed invention. It is a broad term. In re Nehrenberg, 280 F.2d 161, 126 USPQ 383 (CCPA 1960). The court held that the limitation "to substantially increase the efficiency of the compound as a copper extractant" was definite in view of the general guidelines contained in the specification. In re Mattison, 509 F.2d 563, 184 USPQ 484 (CCPA 1975). The court held that the limitation "which produces substantially equal E and H plane illumination patterns" was definite because one of ordinary skill in the art would know what was meant by "substantially equal." Andrew Corp. v. Gabriel Electronics, 847 F.2d 819, 6 USPQ2d 2010 (Fed. Cir. 1988).

The “*substantially equal*” term is used in the claims of the present application in relation to the comparison of one time period with respect to another (e.g., the display time of an interactive icon with respect to a display time duration as recited in claim 16). In addition, as noted by the above-referenced MPEP section, use of the term “*substantially*” is often used, and its use in a claim does not necessarily render a claim indefinite. It is respectfully submitted that one having ordinary skill in the art would know what is meant by “*substantially equal*” when

comparing one time period with respect to another just as one having ordinary skill in the art would know whether E and H plane illumination patterns would be “*substantially equal*” to one another as in the *Andrew Corp* case cited in the above-referenced MPEP section.

Claims 16, 17, 20, 28, 29, 32 and 46 meet the requirements of 35 U.S.C. §112, and the Examiner is requested to reconsider and withdraw the rejections of these claims as being unclear and indefinite under 35 U.S.C. §112, second paragraph.

Claims 1, 2, 5-17, 20-29, 32-34, 37, 38 and 40-46 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,240,555 to Shoff et al. (“Shoff”) in view of U.S. Patent Application Publication No. 2003/0101210 to Goodman et al. (“Goodman”). In addition, claim 39 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Shoff in view of Goodman and further in view of U.S. Patent Application Publication no. 2005/0097600 to Heer et al. (“Heer”). These rejections are respectfully traversed in view of the following remarks.

Claim 1 recites a method comprising receiving from a remote location trigger attribute data identifying at least one display attribute of an interactive icon, wherein the trigger attribute data is comprised of a portion that complies with an ATVEF (Advanced Television Enhancement Forum) standard and a portion that is not defined by an ATVEF standard, wherein the portion that is not defined by the ATVEF standard includes at least a sleep time duration indicator; responsive to receiving the trigger attribute data, causing an interactive icon having the at least one attribute identified by the trigger attribute data to be displayed, until receiving user input selecting the interactive icon, for a plurality of time periods via a display device, wherein each of the plurality of time periods is interspaced by a sleep time duration during which display of the interactive icon is suspended, the sleep time duration corresponding to the sleep time duration indicator; receiving user input selecting the interactive icon; and responsive to receiving the user input, providing a television presentation enhancement.

Claim 23 recites a first set-top terminal (STT) comprising logic configured to cause an interactive icon to be displayed via a display device for a plurality of time periods, the interactive icon having at least one display attribute identified by trigger attribute data received from another apparatus, wherein the trigger attribute data is comprised of a portion that complies with an

ATVEF (Advanced Television Enhancement Forum) standard and a portion that is not defined by an ATVEF standard, wherein the portion that is not defined by the ATVEF standard includes at least a sleep time duration indicator; and logic configured to cause a television presentation enhancement to be displayed via the display device responsive to user input selecting the interactive icon; wherein each of the plurality of time periods is interspaced by a sleep time duration during which display of the interactive icon is suspended, wherein the sleep time duration corresponds to the sleep time duration indicator.

Claim 46 recites a method comprising receiving from a remote location trigger attribute data identifying at least one display attribute of an interactive icon, wherein the trigger attribute data is comprised of a portion that complies with an ATVEF (Advanced Television Enhancement Forum) standard and a portion that is not defined by an ATVEF standard, wherein the portion that is not defined by the ATVEF standard comprises at least a sleep time duration indicator; responsive to receiving the trigger attribute data, causing an interactive icon having the at least one attribute identified by the trigger attribute data to be displayed via a display device for a plurality of time periods, wherein each of the plurality of time periods is interspaced by a sleep time duration during which display of the interactive icon is suspended, the sleep time duration corresponding to the sleep time duration indicator; receiving user input selecting the interactive icon; and responsive to receiving the user input, providing a television presentation enhancement; wherein the trigger attribute data corresponds to a trigger; wherein the remote location is a headend, the display device is a television, and the user input is provided by a remote control device; wherein the enhancement comprises data that is received from a source identified by the trigger attribute data; wherein the source is accessible via the Internet using a uniform resource locator (URL) that is identified by the trigger attribute data; wherein the source is one of an Internet server, a broadcast file system, an object carousel, or a local storage device; wherein the enhancement is downloaded using one of a hyper text transfer protocol (http), a broadcast file system (bfs) protocol, a digital storage media command and control (DSM-CC) protocol, or a file transfer protocol (ftp); wherein the trigger attribute data identifies a sleep time duration for suspending display of the interactive icon; wherein display of the

interactive icon is suspended for a time period that is substantially equal to the sleep time duration; wherein the trigger attribute data identifies a screen location for displaying the interactive icon; and wherein the interactive icon is displayed at the screen location identified by the trigger attribute data.

No combination of Shoff with Goodman renders obvious the combination of features of each of claims 1, 23 and 46, with particular regard to at least the features of a sleep time duration indicator of the trigger attribute data and an interactive icon being displayed for a plurality of time periods via a display device, where each of the plurality of time periods is interspaced by a sleep time duration during which display of the interactive icon is suspended, the sleep time duration corresponding to the sleep time duration indicator.

Shoff describes an interactive entertainment system for presenting supplemental interactive content with video programs, where a display icon can be provided on a display screen showing the program to indicate whether the program is interactive compatible. Applicants maintain the position that Shoff fails to teach or suggest a sleep time indicator at which display of the interactive icon is suspended or a plurality of time periods at which an interactive icon is displayed.

The Examiner alleges that Shoff teaches a sleep time duration indicator at Col. 9, lines 45-46. This section of Shoff teaches that an *“icon 204 can be displayed throughout the program, or faded out after a set time period.”* This statement simply indicates that the icon is either present during an entire program or for only a set time period (e.g., a set number of minutes) during the program. The sleep time duration indicator, as recited in the claims, refers to a time period at which display of the interactive icon is suspended (i.e., a time period at which the interactive icon is **not** displayed). This is not the same and cannot be reasonably construed as a set time period at which an interactive icon is displayed (e.g., during the entire program or for a predetermined number of minutes) as described in Shoff. Therefore, Shoff does not teach a sleep time duration indicator in a portion of trigger attribute data that is not defined by the ATVEF standard as recited in claims 1, 23 and 46.

In addition, Shoff does not teach or suggest displaying an interactive icon a plurality of times as recited in claims 1, 23 and 46, where each of the plurality of time periods is interspaced by a sleep time duration during which display of the interactive icon is suspended, the sleep time duration corresponding to the sleep time duration indicator. The Examiner acknowledges the failure of Shoff to teach this feature (see page 4 of the present Office Action).

However, the Examiner alleges that it would have been obvious to provide a display of the interactive icon at a plurality of time periods interspaced by the sleep time duration as recited in the claims based upon the teachings of Goodman. Applicants respectfully disagree with this assertion.

Goodman describes a method and apparatus configured for selective forwarding of files to a communications device, in particular a wireless device such as a personal digital assistant (PDA), messaging device, portable phone or a wireless computer (see paragraph [0016] of Goodman). Goodman therefore relates to forwarding files such as emails or other electronic messages to a portable wireless device and not to providing interactive features for video programs as is taught in Shoff. It is unclear why one having ordinary skill in the art would have been motivated or that there would be some level of predictability in combining the teachings of these two references, which relate to addressing different issues within different fields of endeavor.

Goodman teaches (paragraphs [0022 – 0026]) that a gateway selectively forwards files to the wireless device (e.g., when the wireless device requests a file). When appropriate resources are not available or rules would be infringed to forward the file to the wireless device, the gateway instead sends a message to the wireless device corresponding to the file such as “*The requested file could not be transmitted (or retrieved) due to unavailable resources*” (paragraph [0025] of Goodman). Another option described in Goodman when a file cannot be forwarded is to indicate the problem but note that the file has been saved in a folder or on a server or the like and identified as “*Review tonight*”. Goodman further describes that a reminder message can be provided to the wireless device as a blinking icon or periodically displaying a message such as “*read Review Tonight folder*” (paragraph [0026] of Goodman).

In combining Shoff with Goodman in an attempt to allege claims 1, 23 and 46 are obvious, the Examiner acknowledges that Shoff does not teach displaying the interactive icon for a plurality of time periods interspaced by a sleep time duration, but the Examiner states the following (page 4 of the present Office Action):

“However, Goodman et al disclose this reminder could take various known forms such as a blinking icon or periodically displaying one of the messages in Fig. 4 or a message ‘read Review Tonight folder’. The reminder may also be an email message containing the reminder or URL or address of the file to be view later, 0026.

Because Goodman et al disclose that the reminder can be displayed periodically; it would have been obvious for any person of ordinary skill in the art at that time the invention was made to modify the system of Goodman for allowing interactive icon to be displayed periodically with a sleep time duration after each period.”

Initially, Applicants note that the Examiner has not provided any reason or explanation as to why one of ordinary skill in the art would have modified the method and apparatus of Shoff based upon the teachings of Goodman. Instead, the Examiner makes a generalized, conclusory statement that such a modification to Shoff would have been obvious just because a blinking or periodic display feature is taught in Goodman. As set forth in MPEP § 2142, rejections based upon obviousness cannot be sustained with mere conclusory statements; instead, an Examiner must provide some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. Since the Examiner has not provided any such explanation in making this rejection, it is respectfully submitted that the Examiner has failed to meet the *prima facie* burden for establishing an obviousness rejection of claims 1, 23 and 46 under 35 U.S.C. §103(a).

In addition, Applicants respectfully submit that it is unreasonable to allege that one having ordinary skill in the art would have been motivated to modify Shoff based upon Goodman in the manner suggested by the Examiner.

As noted by the Examiner, the blinking or periodic display of a message in Goodman is as a reminder that a file is available for review. More specifically, the blinking message described by Goodman is for a portable, wireless device that indicates a file is available for viewing at another device (e.g., a computer connected with a server that can download and review the file). This is not the same and cannot reasonably be construed as an interactive icon for a video program viewed on a display device as taught in Shoff, which does not serve as a reminder that a file exists for review on another device but rather as an indicator that there is interactive content available for the video program that can be viewed on the same display device.

It is not clear how or why one having ordinary skill in the art would have thought to modify the interactive icon displayed on a television or other display device for a video program as taught by Shoff based upon the portable wireless device and system taught by Goodman, which relates to transferring a file to the wireless device or notifying the user of the wireless device that a file exists for review by another device. The Shoff and Goodman references relate to completely different devices which are designed and function for different purposes.

For at least the previously noted reasons, it is respectfully submitted that claims 1, 23 and 46 are not obvious over any combination of Shoff with Goodman, and the Examiner is requested to reconsider and withdraw the rejections of these claims based upon these references.

Heer also fails to make up for the deficiencies of Shoff and Goodman with respect to claims 1, 23 and 46.

Claims 2, 5-17, 20-22, 24-29, 32-34 and 37-45 depend from one of claims 1 and 23 and therefore include all of the limitations of their respective parent claim. These claims therefore are not rendered obvious by any combination of Shoff with Goodman and/or Heer for at least the reasons noted above for claims 1 and 23. The Examiner is therefore requested to reconsider and withdraw the rejections of these claims as being obvious over Shoff in view of Goodman or Shoff in view of Goodman and Heer.

In addition, claim 46 and dependent claims 21 and 33 recite the feature that the trigger attribute data identifies a screen location for displaying the interactive icon. The feature of the

trigger attribute data, which is received from a remote location, identifying a screen location for displaying the interactive icon is useful in that this facilitates providing different locations for the interactive icon to be shown on the display screen depending upon a particular program and as determined, e.g., by the headend or content provider of the video program. This feature is not taught or suggested by Shoff.

The Examiner alleges this feature is described in Shoff at Table 2, Col. 13, line 63, at Col. 13, line 12, in Figs. 6 and 8A (element 162 and 204) and also at Col. 3, lines 21-23. However, this feature does not appear to be taught at any of these sections in Shoff as referenced by the Examiner. The sections of Shoff noted by the Examiner appear to only indicate that the interactive icon is displayed, e.g., in the right-hand corner of the screen (as shown in Fig. 8A and described at Col. 9, lines 41-44 of Shoff). There is no indication in Shoff that this location is determined based upon trigger attribute data provided from a remote location to the set-top box for the display device.

In view of the foregoing, Applicant respectfully requests the Examiner to find the application to be in condition for allowance with claims 1, 2, 5-17, 20-29, 32-34 and 37-46. However, if for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is respectfully requested to call the undersigned attorney to discuss any unresolved issues and to expedite the disposition of the application.

Applicant hereby petitions for any extension of time that may be required to maintain the pendency of this case, and any required fee for such extension is to be charged to Deposit Account No. 05-0460.

Respectfully submitted by:

Dated: January 7, 2009

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